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Applicant(s): MAES, ET AL.

Docket No.

2870/287(99.45US)

Serial No.

09/554,984

Filing Date

05/23/2000

Examiner

A. PRYOR

Group Art Unit

1616

Invention: COMPOSITION FOR IMPROVING SKIN BARRIER FUNCTION

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Attorney Docket No.: 2870/287(99.45)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of :. Maes et al.

Serial No.: 09/554,984

Group Art Unit: 1616

Filed: May 23, 2000

Examiner: A. Pryor

For: COMPOSITION FOR IMPROVING SKIN LIPID BARRIER FUNCTION

RESPONSE UNDER 37 CFR 1.115

Assistant Commissioner of Patents
Washington, D.C. 20231

Sir:

In response to the office action dated May 19, 2003, please enter the following remarks.

REMARKS

For the first time, in the third office action in this case, the Examiner has required election of a single disclosed species to which the claims will be restricted if no generic claim is finally held allowable. This is particularly surprising to Applicants since in the previous office action at least two "generic" claims were deemed to be allowable. The Examiner's delay in imposing this restriction, which clearly could have been imposed in the first office action, has prejudiced Applicants' rights in this application, and should provide a basis for extension of patent term because of unnecessary delay by the Patent Office in examining this application.

Also unexpectedly, the Examiner has requested election of species of both protease inhibitors and cell differentiation enhancers. The latter is particularly perplexing, since the Examiner has already indicated allowability of claims limited to a specific cell differentiation enhancer, namely sclareolide, in the previous office action, so further search on this material should not even be required. In order to be responsive to the election requirement, Applicants will elect white birch extract as the protease inhibitor, and sclareolide as cell differentiation inhibitor. The claims reading on these species are claims 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 28, 29 and 30.

The Examiner has also stated that "[i]f Applicant desires additional components such as tanning agent(s), Examiner is requesting that Applicant specifically name or completely define all additional